IMPROVEMENTS

Section 30A: AGREEMENT FOR IMPROVEMENTS. Before Council approval of the final plat, the partitioner or subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the partition or subdivision, or execute and file with the City an agreement between himself and the City specifying the period within which required improvements and repairs shall be completed. The agreement shall provide that if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense thereof from the partitioner or subdivider. The agreement may provide for the construction of the improvements in units, and for an extension of time under specified conditions. Minimum units will be one block of street frontage.

Section 30B: BOND.

1. The partitioner or subdivider shall file with the agreement, to assure his full and faithful performance thereof, one of the following:

a. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.

b. An agreement, duly signed and executed by the partitioner or subdivider, assigning his account in a legal savings institution in the State of Oregon to the City of Elgin.

c. Cash.

2. Such assurance of full and faithful performance shall be for a sum determined by the City to be at least 25% greater than the estimated cost to cover the cost of the improvements and repairs, including related City expenses. The performance bond shall guarantee the improvement to be free of defects for one year after written acceptance by the City.

3. If the partitioner or subdivider fails to carry out provisions of the agreement and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond, savings account or cash deposit for reimbursement. If the amount of the bond, savings account

or cash deposit exceeds the cost and expense incurred by the City, the City shall release the remainder. If the amount of the bond, savings account or cash deposit is less than the cost and expense incurred by the City, the partitioner or subdivider shall be liable to the City for the difference.

Section 31: IMPROVEMENT PROCEDURES. In addition to other requirements, improvements installed by the partitioner or subdivider, either as a requirement of these regulations or at his own option, shall conform to the requirements of this ordinance and improvement standards or specifications adopted by the City and shall be installed in accordance with the following procedure:

1. Work shall not be commenced until plans have been reviewed and approved by the City. To the extent necessary for evaluation of the partition or subdivision proposal, such plans may be required before approval of the final map. All plans shall be prepared on reproducible material in accordance with the requirements of the City.

2. Work shall not be commenced until the City has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the City has been notified. Notification shall be given two days in advance of initiating work.

3. Required improvements shall be inspected by and constructed to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such change in the public interest.

4. Underground utilities, sanitary sewers and storm drains installed in streets by the partitioner or subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to lengths that will avoid the need to disturb street improvements when service connections are made. All stubs will be marked and identified in the concrete curbs.

5. A map showing all public improvements as built shall be filed with the City upon completion of the improvements.

Section 32: IMPROVEMENT REQUIREMENTS. The following improvements shall be installed at the expense of the partitioner or subdivider:

1. Water supply. Lots within a partition or subdivision shall be served by a domestic water supply system conforming to the City's approved specifications.

2. Sewage Disposal. Lots within a partition or subdivision shall be served by a sewage disposal system conforming to City approved specifications.

3. Drainage. Grading shall be performed and drainage facilities installed as determined necessary by the City to provide proper drainage within the partition or subdivision and other affected areas in order to assure healthful, convenient conditions for the residents of the partition or subdivision and for the general public. Drainage facilities in the partition or subdivision shall be connected to drainage ways or storm sewers outside the partition or subdivision. Dikes and pumping systems shall be installed if necessary to protect the partition or subdivision against flooding or other inundation.

4. Streets and sidewalks. The partitioner or subdivider shall improve streets in the partition or subdivision and the extension of such streets to the paving line of existing streets with which such streets intersect in accordance with City approved specifications. Such improvements shall include proper base, curbs and pavement. A five-foot sidewalk on each side of the street within the partition or subdivision may also be required. Any or all of these street and sidewalk improvements may be required on an exiting street which abuts the partition or subdivision.

5. Monuments. Upon completion of street improvements, monuments shall be reestablished in monument boxes at every street intersection and points of curvature or as required by the City.

6. No parcel or lot shall be sold on any given block until all of the above improvements have been installed and approved by the City in the street right-of-way that the parcels or lots front upon. All blocks in which parcels or lots are to be offered for sale shall adjoin previously improved street rights-of-way.

7. All public utilities such as electricity, telephone and television cable services and mains shall be underground to City approved specifications.

8. The partitioner or subdivider shall install street and pedestrian way lights to City approved specifications.

EXCEPTIONS, MODIFICATIONS AND ENFORCEMENT

Section 33: EXCEPTIONS IN CASE OF LARGE SCALE DEVELOPMENT. The Council may modify the standards and requirements of this ordinance if the partition or subdivision plat comprises a planned unit development. The Council shall determine that such modifications are not detrimental to the public health, safety and welfare and that adequate provision is made within the development for traffic circulation, open space and other features that may be required in the public interest.

Section 34: MODIFICATION APPLICATION. Modifications of the partition and subdivision dimensions can, upon application to the Council, be approved to alleviate hardships, provided all of the following conditions can be found to exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from tract size or shape, topography or other circumstances over which the owners of property since enactment of this ordinance have had no control.

2. The modification will be in accord with the purpose of this ordinance.

3. The interests of the public will be preserved, and such action(s) will not set a trend; and

4. That the modification will be the minimum needed to alleviate the hardship, and will not result in an undesirable change in area land values or property uses, or be otherwise injurious to other property in the area.
In approving a modification, the Council may require such conditions as determined desirable to insure that the purposes of this ordinance will be carried out, and that the uses provided for by the modification(s) will be compatible with surrounding area development.

The Council shall deny application for modification(s) if all of the conditions above are not found to exist.

Section 35: COUNCIL ACTION ON MODIFICATIONS. In granting or denying a modification the Council shall make a written record of its findings which address the conditions in Section 34. In addition, when granting a modification the Council shall specifically describe the modification and any conditions which they may designate.

The City Recorder shall keep the findings on file as a matter of public record.

Section 36: APPEAL. Decisions of the Council may be appealed by either the requestor or any aggrieved resident.

1. If new information is to be presented, the Council may hear an appeal of an earlier decision. Written notice of the appeal must be filed with the City Recorder within 10 days after the decision. The notice of appeal shall state the nature of the decision or requirement and the grounds for the appeal, and include the new information to be submitted.

2. The City Council shall hold a hearing on the appeal within 30 days from the time the appeal is filed or its next available scheduled Council meeting. The City Council may continue the hearing for good cause. Following the hearing the City Council may change or modify their earlier decision if such action complies with the spirit and intent of the ordinance. The disposition of the appeal shall be final.

Section 37: AMENDMENTS. An amendment to the text of this ordinance may be initiated by the Council, or by application of a property owner or his authorized agent.

Consideration of an amendment shall be made by the Council at a public hearing. The Planning Official shall maintain a record of amendments to the text of this ordinance in a form convenient for public use.

Section 38: HEARINGS. Any hearing to consider a modification, amendment, or appeal request shall be held only after publishing public notice of the hearing at least 10 days prior to the hearing in a newspaper of general circulation published in the area in which the land affected is situated.

Such notice shall indicate the time, place, and purpose of the hearing, and a description of the land to be affected thereby. A hearing may be recessed providing the time and place to reconvene are indicated prior to the recess.

Section 39: FEES. For the purpose of partially defraying the expense involved in investigating matters connected with applications and appeals and the action taken thereon, each activity initiated by property owners or contract purchasers shall be accompanied by a fee in accordance with a Fee Schedule approved by Council Resolution.

Section 40: INTERPRETATION OF ORDINANCE PROVISIONS. The Council shall be responsible for interpreting the provisions of this ordinance.

Section 41: VALIDITY. If any provision of this ordinance shall for any reason be judged invalid or unconstitutional, the judgment shall not affect the validity of the rest of the ordinance.

Section 42: PENALTIES FOR VIOLATION. In addition to penalties provided by state law, any person who violates or fails to comply with any provisions of this ordinance shall, upon conviction thereof, be punished by a fine as provided, in the Elgin Zoning Ordinance.